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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-797**

12 **JANELL DELIGHT TAGGART**
13 **13310 Proctor Valley Road**
14 **Jamul, CA 91935**

A C C U S A T I O N

15 **Registered Nurse License No. 650836**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about January 12, 2005, the Board of Registered Nursing issued Registered
25 Nurse License Number 650836 to Janell Delight Taggart (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on November 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Business and Professions Code (Code) section 2750 provides, in pertinent part, that the Board may discipline any licensee for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license . . .

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1 8. Code section 2770.11 states:

2 (a) Each registered nurse who requests participation in a diversion program
3 shall agree to cooperate with the rehabilitation program designed by the committee
4 and approved by the program manager. Any failure to comply with the provisions
5 of a rehabilitation program may result in termination of the registered nurse's
6 participation in a program. The name and license number of a registered nurse who
7 is terminated for any reason, other than successful completion, shall be reported to
8 the board's enforcement program.

9 (b) If the program manager determines that a registered nurse, who is denied
10 admission into the program or terminated from the program, presents a threat to
11 the public or his or her own health and safety, the program manager shall report
12 the name and license number, along with a copy of all diversion records for that
13 registered nurse, to the board's enforcement program. The board may use any of
14 the records it receives under this subdivision in any disciplinary proceeding.

11 COST RECOVERY

12 9. Code section 125.3 states, in pertinent part:

13 (a) Except as otherwise provided by law, in any order issued in resolution of
14 a disciplinary proceeding before any board within the department . . . the
15 administrative law judge may direct a licensee found to have committed a violation
16 or violations of the licensing act to pay a sum not to exceed the reasonable costs of
17 the investigation and enforcement of the case.

16

17 (i) Nothing in this section shall preclude a board from including the recovery
18 of the costs of investigation and enforcement of a case in any stipulated settlement.

19 CONTROLLED SUBSTANCES AT ISSUE

20 10. "Fentanyl" is a Schedule II controlled substance pursuant to Health and Safety Code
21 section 11055, subdivision (c)(8) and is a dangerous drug per Business and Professions Code
22 section 4022.

23 11. "Hydrocodone" which is contained in "Vicodin" and "Norco" is a Schedule II
24 controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I) and
25 is a dangerous drug per Business and Professions Code section 4022.

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1 **FACTS**

2 12. On or about December 13, 2011, Respondent enrolled in the registered nurse
3 diversion program MAXIMUS. As part of the program, she entered an inpatient treatment
4 program at Creekside Recovery.

5 13. On or about February 26, 2012, Respondent entered inpatient treatment at Creekside
6 Recovery, but was terminated after 18 days due to testing positive for the controlled substance
7 Norco, for which she had no prescription.

8 14. On or about April 23, 2012, Respondent tested positive for the controlled substance
9 Fentanyl, at 7.4 ng/mL, for which she had no prescription.

10 15. On or about April 24, 2012, Respondent tested positive for the controlled substance
11 Fentanyl, at 2.3 ng/mL, for which she had no prescription.

12 16. On or about May 16, 2012, Respondent was terminated from the diversion program
13 with the classification of public health risk due to Respondent's relapse on Norco and Fentanyl,
14 for which she had no prescriptions.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Use of Controlled Substances)**

17 17. Respondent is subject to disciplinary action pursuant to Code section 2761,
18 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
19 subdivision (b), in that while in the registered nurse diversion program, Respondent used
20 controlled substances, including, but not limited to, Norco and Fentanyl, to an extent or in a
21 manner dangerous or injurious to herself or others or the public, in that she used Norco and
22 Fentanyl for which she had no prescriptions, as described in paragraphs 12 - 15 above.

23 **DISCIPLINARY CONSIDERATIONS**

24 18. Respondent acted unprofessionally when she failed to comply with the registered
25 nurse diversion program MAXIMUS after signing a contract agreeing that she would comply
26 with the diversion program. Respondent was terminated from diversion for using the controlled
27 substances Norco and Fentanyl.

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1 **PRAYER**

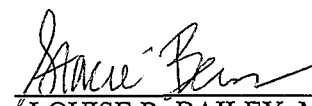
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 650836 issued to Janell
5 Delight Taggart

6 2. Ordering Janell Delight Taggart to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: MARCH 19, 2013

13 *for* 
14 LOUISE R. BAILEY, M.Ed., RN
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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